

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA

Civil Action No: 5:14-CV-040-JPS-JCH

3 ANTHONY WADE GALLOWAY,
4 Plaintiff,

5 -vs-

DEPOSITION OF:

6 SUNBELT RENTALS, INC.,
7 et al.,

SCOTT L. TURNER

8 Defendant.
9
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12
13

14 TRANSCRIPT of testimony taken by and
15 before JACQUELINE ZAMMATARO, a Notary Public and
16 Certified Shorthand Reporter of the State of New
17 Jersey, License No. XI01442, on Tuesday,
18 February 24, 2015, at Holiday Inn Express, 8
19 North Park Drive, Newton, New Jersey, commencing
20 at 10:00 a.m.
21
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23
24
25

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1 APPEARANCES:
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 5 Reston, Virginia 20190
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 10 Suite 200
 11 Richmond, Virginia 23236
 12 Attorneys for Defendants
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1 MR. SETHI: On page 24 and 25 and 26
 2 of Mr. Turner's report there is a series of
 3 opinions and they're numbered, and we are
 4 withdrawing opinions 8, 9, 12, 13, and 14.
 5 SCOTT L. TURNER, having been duly sworn,
 6 testifies as follows:
 7 EXAMINATION BY MR. CAFRITZ:
 8 Q Mr. Turner, my name is Brian
 9 Cafritz. I represent David Church and Sunbelt
 10 Rentals in a lawsuit in which you have been asked
 11 and designated as providing expert opinion.
 12 You've had your deposition taken
 13 before?
 14 A Plenty of times, yes, sir.
 15 Q You understand if I ask you
 16 something that you don't understand, you will let
 17 me know and I can repeat or rephrase the
 18 question?
 19 A I do.
 20 Q Please wait for me to finish my
 21 question before you answer. You may be great at
 22 anticipating what I am going to ask you, but it
 23 will help the court reporter if we don't talk
 24 over each other. Okay?
 25 A Sure.

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1 Q If you need a break at any time,
 2 also please let me know.
 3 Could you please state your name for
 4 the record.
 5 A Scott L. Turner, T-U-R-N-E-R.
 6 Q Where do you work, Mr. Turner?
 7 A Work out of a -- location-wise would
 8 be Knowlton, New Jersey, primarily.
 9 Q What is the name of the company you
 10 work for?
 11 A It's Scott L. Turner Consulting,
 12 LLC.
 13 Q What does Scott L. Turner Consulting
 14 do?
 15 A Predominantly it's involving
 16 litigation, representing plaintiffs or defendants
 17 in litigation with regard to truck-related
 18 matters, be it in crashes or incidents.
 19 Q How many hours a week do you spend
 20 work -- doing work for Scott Turner Consulting?
 21 A It really varies, but I would say on
 22 average it's probably somewhere in the
 23 neighborhood of about 20 to 25 hours a week.
 24 Q What is your annual income from
 25 Scott Turner Consulting every year?

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Page 8

1 A Approximately 400,000 a year.
 2 Q Do you have any other work you do
 3 outside of Scott Turner Consulting?
 4 A Yes, sir. I am a cattle rancher as
 5 well.
 6 Q In this particular case you have
 7 given a fee schedule, and your standard rate for
 8 this case is \$350 an hour?
 9 A Yes.
 10 Q Is that correct?
 11 A Yes.
 12 Q And your deposition and court
 13 testimony time is \$400 an hour?
 14 A Yes, sir.
 15 Q How much have you billed for your
 16 work in this case to date?
 17 A I would have to refer to the file
 18 produced -- excuse me -- not Duces Tecum but --
 19 oh, I have another copy right in front of me.
 20 Not including today or deposition preparation
 21 that I went through last night that I was doing
 22 last night, approximately \$16,000.
 23 Q How many cases are you working on
 24 right now?
 25 A My caseload is approximately 40

1 A No, sir. Right after high school I
 2 went into work -- the work world, and I started
 3 driving trucks after a short -- after a
 4 reasonably short period of time.
 5 Q What year did you graduate high
 6 school?
 7 A 1981.
 8 Q Do you have any special licenses or
 9 certifications?
 10 A I have got a multitude of
 11 certifications. MCSAP level one, NASI roadside
 12 inspector.
 13 Q For the interest of the speed, let
 14 me show you a document we will mark as Exhibit-1
 15 Turner-1.
 16 (Turner-1, a CV, is marked for
 17 identification.)
 18 BY MR. CAFRITZ:
 19 Q Mr. Turner, let me show what has
 20 been marked as Exhibit-1. That is the CV you
 21 have provided in this case; is that correct?
 22 A Yes, sir, it is.
 23 Q Is that up to date?
 24 A It is.
 25 Q And you are listing various

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1 cases active.
 2 Q How many of those cases are you
 3 representing the plaintiff or are you giving
 4 opinion for the plaintiff?
 5 A The easiest way to put it I'm
 6 probably about a 60-40 split, with 60 percent
 7 being the weight of the defense side.
 8 Q And what is your specific field of
 9 expertise?
 10 A Commercial motor vehicle regulations
 11 with respect to the FMCSR and standards of care
 12 in relation to truck crashes and/or commercial
 13 motor vehicle events, incidents, things of that
 14 nature.
 15 Q Is that with a concentration on
 16 hazardous materials?
 17 A No, sir. Actually, that's a small
 18 part of it. I would say probably -- I would say
 19 maybe about 15 percent of the cases that come in
 20 are involved with hazardous materials, but there
 21 is always a truck related. I don't take any
 22 cases on unless there is a truck issue related.
 23 Q What is your education?
 24 A Graduate of high school.
 25 Q Any college education?

1 certifications that you hold. If you look on
 2 page two, there is a heading called
 3 certifications and training?
 4 A Yes, sir.
 5 Q Is that what you were referring to?
 6 A Yes, sir.
 7 Q Any licenses that you --
 8 A No. No licenses but certifications
 9 through training and what I like to refer to as a
 10 working man's PhD.
 11 Q Do you hold a CDL?
 12 A No. I used to have commercial motor
 13 vehicle driver's license years ago, but because I
 14 was no longer driving, I allowed that to expire.
 15 Q When did that expire?
 16 A The early '90s, I would say.
 17 Q What state was it from?
 18 A New Jersey.
 19 Q You ever held a CDL from Virginia or
 20 West Virginia?
 21 A No. No, sir.
 22 Q You ever had any of your -- have you
 23 ever had your license suspended?
 24 A When I was a kid, I had it
 25 suspended. I think I was 18 years old or

Page 10

Page 12

1 something like that. I think it was for
2 nonpayment of a summons or something like -- I
3 just don't recall what it was.

4 Q Was that a CDL?

5 A No, sir.

6 Q Looking at your CV on page three,
7 there is a list that looks like of various
8 speaking engagements or publications you have
9 been part of?

10 A Yes, sir.

11 Q And going through those, as I read
12 them, it looked like they were all dealing with
13 Hazmat and cargo tank issues; is that correct?

14 A Predominantly, yes. As far as I can
15 see, yes.

16 Q You did not have any -- well, let me
17 go back.

18 You don't hold yourself out as
19 expert in the manner in which a truck driver
20 operates his vehicle and takes turns; correct?

21 A Oh, of course I am.

22 Q But you're not a CDL driver, are
23 you?

24 A No. Formerly. Again, I allowed my
25 CDL to expire years ago.

1 Q Are you licensed -- or were you
2 licensed to be an instructor for CDL?

3 A No, sir. No. No. I was not a CDL
4 licensing instructor. I would teach safety
5 courses to our people, to my employees throughout
6 my tenure as CEO of running the company.

7 Q What was the -- who developed the
8 curriculum for the safety courses?

9 A It would be developed off curriculum
10 off the FMCSR.

11 Q Specific to the issues in this case,
12 what topics would you teach that were relevant to
13 what happened in this accident?

14 A Preventative measures,
15 countermeasures with respect to crashes. Proper
16 driving techniques, things of that nature. In
17 addition, I am also a Smith-System driver
18 trainer, which Smith-System driver training
19 reflects directly into -- and as a certified
20 instructor directly into 383.111 of the FMCSR,
21 where it has 20 points of required knowledge of a
22 commercial motor vehicle operator. So I am a
23 certified instructor in training that as well.

24 Q Certified by whom?

25 A Smith-System. Smith-System is --

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Page 13

1 Q Without -- you don't teach -- you
2 don't instruct people on operation of vehicles,
3 do you?

4 A I have in the past, yes.

5 Q When is the last time you instructed
6 people on operation of commercial vehicles?

7 A Would have been after 1993 and
8 before 2000 -- sometime in -- various times
9 throughout 1993 up through and to about, say,
10 2010.

11 Q And for whom did you provide
12 instruction?

13 A I was CEO of a company that we were
14 a small -- we started out as a small company
15 eventually became a very large company with
16 respect to what we did, where we had a lot of
17 commercial motor vehicles. I owned a fleet of
18 tractor-trailers. That's in addition to my
19 former driving experience, but we owned -- I
20 owned a fleet of commercial motor vehicles, both
21 straight job trucks, cargo tank trucks,
22 roll-offs, van trailers.

23 Q Did you personally do the training
24 and instruction of the drivers?

25 A Some of it I did, yes.

1 just for the benefit of the jury, is the -- is
2 likely -- arguably the leading defensive driver
3 commercial motor vehicle training program in the
4 -- on the globe throughout the world.

5 Q According to whom?

6 A It's according -- I mean, they're
7 used by the federal government. They're used by
8 many, many major corporations. That would be my
9 opinion. That's why I use the term arguably.

10 Q Smith is spelled --

11 A S-M-I-T-H, hyphen, System,
12 S-Y-S-T-E-M.

13 Q And when did you get your
14 Smith-System certification?

15 A I would say it was probably about
16 five years ago, six years ago. I don't recall
17 the date.

18 Q Is that certification still valid,
19 or do you have to keep it up?

20 A No. No. It's a one-time
21 certification. And with that I've also done
22 training -- driver training which I failed to
23 mention. After the Smith-System I have also done
24 driver training for various companies and some
25 municipalities where I would go out and -- when I

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1 used to do some driver training, I don't do that
2 any longer, under Scott L. Turner Consulting.
3 But that driver training would be defensive-type
4 driver training, and I would incorporate that
5 into -- into the general training that I was
6 doing. So -- and it was -- a lot of times it
7 would be annual training for companies and such.

8 Q You said you were the CEO of a
9 company that taught safety courses. What was the
10 name of that company?

11 A The name of the company was -- it
12 was -- it's an acronym which is HMHTTC Response,
13 Incorporated.

14 Q Is that still in existence?

15 A No.

16 Q When did it stop?

17 A We wound it down back in 2010 I
18 believe it was.

19 Q What was the purpose for winding it
20 down?

21 A It was just I got tired of doing it,
22 and it was an economic situation, the country's
23 economics at that point, and I just decided to
24 wind it down. It wasn't a bankruptcy. It was
25 just a wind it down, shut the company down.

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1 Q Did you sell off your fleet?

2 A We sold off all the assets. And in
3 that company throughout the years we had -- I
4 believe it was 18 offices throughout the United
5 States and a multitude of drivers, commercial
6 motor vehicle drivers.

7 Q You would agree this is not a cargo
8 tank or Hazmat case; correct?

9 A No, sir.

10 Q As I am looking through this CV, you
11 operated a tractor-trailer as a living for three
12 years from 1985 to 1988?

13 A Approximately, yes.

14 Q And let's see. Looking at your
15 certification and training, three from the
16 bottom --

17 A Yes, sir.

18 Q -- you'll see where it says New
19 Jersey State Police confined space operations
20 trainer?

21 A Yes, sir.

22 Q Is training for confined spaces
23 necessary because of how you operate in a
24 confined space can be different from how you
25 operate on the open road?

1 MR. SETHI: Brian, I'm sorry. Where
2 are you on this?

3 MR. CAFRITZ: The third from bottom
4 on certifications and training?

5 THE WITNESS: Page two.

6 MR. SETHI: Okay. I'm sorry. Go
7 ahead. I'm sorry. I got it.

8 THE WITNESS: No. It has nothing to
9 do with the confined spaces with regard to how a
10 cargo tank may be considered a confined space,
11 for example, or a -- any kind of area that meets
12 the requirements under 1910.146 under OSHA where
13 it defines a confined space and people go into
14 that confined space to work and how they have to
15 -- somebody could go down inside that confined
16 space due to asphyxiation or something to that
17 effect, and that's training on how to recover.
18 It has nothing to do with trucks.

19 Q Okay.

20 A Truck response, I should say, truck
21 crashes.

22 Q Okay. When did you first get
23 contacted for this case?

24 A I would have to refer to the
25 retainer agreement, which I -- let me put it this

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1 way. It would have been back in -- I believe it
2 would have been sometime in October of 2014. I
3 don't have the exact date in front of me, though.

4 Q What was the scope of your -- who
5 contacted you?

6 A Mr. Sethi.

7 Q How did you first get notice or get
8 contacted by Mr. Sethi?

9 A By phone.

10 Q What was the discussion about?

11 A It was in relation --

12 MR. SETHI: I will let this go since
13 it's an introductory question, but generally
14 speaking, the communications now with the rule
15 changes of the federal rules, they're basically
16 privilege. But this I'll let it go {} -- you can
17 ask this one.

18 THE WITNESS: One more time, please.
19 BY MR. CAFRITZ:

20 Q Can you please describe the
21 discussion that you had with Mr. Sethi on your
22 initial communication?

23 A Generally, it was -- and going back
24 in memory, it was sometime ago. So in general
25 terms, it was that there was a commercial motor

<p style="text-align: right;">Page 18</p> <p>1 vehicle incident that occurred with a Moped. 2 Q What was your directive or the scope 3 of your retention? 4 A Well, to cite it specifically out of 5 my report, if you look at section 4.0 on page 3, 6 it says, "The undersigned has been requested to 7 examine all of the documents listed in the 8 document's reviewed section of this report. Apply 9 the knowledge, experience and training along with 10 standards of care, the FMCSR, and any other 11 regulatory concerns regarding CMV operations and 12 violations that may have been directly or 13 indirectly contributive to the subject crash." 14 By the way, CMV stands for 15 commercial motor vehicle, and FMCSR stands for 16 Federal Motor Carrier Safety Regulations. 17 Q Had you ever done any work for 18 Mr. Sethi prior to this case? 19 A No, sir. 20 Q How about his partner, Bob Hall? 21 A No, sir. 22 Q Have you ever done any work for the 23 firm of Hall & Sethi? 24 A No, sir. 25 Q Have you ever done any work for Mark</p>	<p style="text-align: right;">Page 20</p> <p>1 first response for request for production. 2 MR. CAFRITZ: If it's -- counsel's 3 representation is those are documents that were 4 produced by Sunbelt. I know exactly what you 5 mean. 6 MR. SETHI: That's the entire first 7 production. 8 MR. CAFRITZ: Okay. 9 MR. SETHI: Along with the CD. I 10 think it's the video that's in there. 11 THE WITNESS: Then there is amended 12 notice of Duces Tecum that is for my deposition. 13 There is the proceedings by -- where Mr. Robert 14 Underwood and his wife were both -- not deposed. 15 I'm not going to say deposed. 16 BY MR. CAFRITZ: 17 Q Statementized? 18 A Statementized. Then there's 19 Plaintiff's objections to defendant's notice of 20 deposition of Scott L. Turner. Then I have here 21 -- these are just two e-mails that are -- there 22 is nothing on them other than the regulations 23 that I had my secretary send to me. 24 Q Those are from your secretary to 25 you?</p>
<p style="text-align: right;">Page 19</p> <p>1 Stivers? 2 A No, sir. 3 Q You were asked to bring documents 4 with you today to the deposition, and you 5 certainly brought a bunch of them. Is that your 6 entire file? 7 A It is. 8 Q Was there anything that is in your 9 file that was withheld or not brought? 10 A No, sir. Not that I am aware of. I 11 mean, in addition to under Rule 26 with the 12 report was provided all the -- pretty much what 13 you have in front of you here. 14 Q I am scanning through it, and it 15 looks like I am familiar with most of the 16 documents, but if you could just kind of identify 17 what you have brought with you so we can just 18 weed out the things I know and I have seen and 19 just focus on things that I may not have seen 20 before. 21 A The original binder that was sent to 22 me is in a black three-ring binder, and this is 23 provided by Mr. Sethi. And there is various 24 sections in here -- 25 MR. SETHI: It's entitled Sunbelt's</p>	<p style="text-align: right;">Page 21</p> <p>1 A From my secretary to me, which is 2 the regulations for State of Virginia -- or 3 Commonwealth of Virginia with respect to 4 commercial motor vehicle or being required to be 5 in its lane without leaving its lane until safe 6 to do so and then also the regulation of where a 7 commercial -- or a vehicle, I should say, in 8 general, where it's not permitted to cross a 9 white line until safe to do so. 10 Q Let me -- actually, I will make it 11 easy, and I will just identify the statute. 12 Statutes 46.2-804? 13 A Yes sir. 14 Q And that's from e-mail, and it 15 appears to be from Mark Stivers, dated December 16 3rd, 2014. 17 A Yeah. 18 Q I will let you take a look at the 19 date and confirm that that was from Mr. Stivers? 20 A Yes, sir. 21 Q And then there is a second e-mail 22 dated February 23rd, 2015, from Mark Stivers, 23 providing Section 46.2-846? 24 A Right. 25 Q Is that correct?</p>

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1 A Yeah. We had discussions with this
2 -- about these on the phone, and then for -- and
3 then I had my assistant send them from -- to me
4 printed out. As you can see up here, her name is
5 Carmen Blossiers, B-L-O-S-S-I-E-R-S. And we had
6 discussions of this -- of these regulations,
7 these commonwealth regulations.

8 Q Are those the only two commonwealth
9 statutes -- or Commonwealth of Virginia statutes
10 that you reviewed?

11 A I believe so. I believe it was.

12 Q Did you search and read any others
13 and not incorporate them in your report?

14 A Yeah. There was, and I just can't
15 remember what it was in specific. There was one
16 other one that I was looking at as well that I
17 did not incorporate. As a matter of fact, I
18 don't believe that I incorporated both of these
19 into my report. One was incorporated into the
20 report. I think it was 804. And the other one I
21 don't believe I incorporated into the report.
22 Then there was another one that I looked at too,
23 and I just don't recall what it was, though.

24 Q Were those -- those other statutes
25 that weren't in those e-mails that you discussed,

1 statutes dealing with obligations and duties of
2 motor vehicle operators at stoplights?

3 A No, I didn't.

4 Q Why don't you continue going through
5 your documents?

6 A Yeah. Well, and just to continue to
7 address on those two statutes from the
8 Commonwealth of Virginia, those are prefaced in
9 my report under 6.5, 6.5.1 under FHWA, and then
10 there is also 6.5.2, which is the Commonwealth of
11 Virginia. So it's basically backing up those --
12 those state regulations back up the federal
13 regulations, as I was stating before.

14 And then we have here as defendant's
15 rule and disclosures some pleadings here. The
16 police crash report from the State of Virginia.
17 Then there is the deposition of Jeffery Acome,
18 A-C-O-M-E. Then there is the Virginia State
19 Police statement by that Ms. Underwood. Then
20 there is a Virginia State Police statement by
21 David Church. Virginia State Police statement
22 and I can't read the name -- oh, okay. I'm
23 sorry. Crystal Hummer. Deposition of David
24 Church.

25 Q Well, you pulled some notes off of

Page 23

Page 25

1 were they also provided by Mr. Stiver's office?

2 A I don't believe so. I am not 100
3 percent sure, but I just don't believe so.

4 Q These regulations here by the
5 Commonwealth are pretty much commonplace from
6 state to state because they follow the Federal
7 Highway Administration, FHWA, as to lines in the
8 highway and how they conduct themselves -- how a
9 motor vehicle would conduct itself on the
10 highway. So these are actually regulations that
11 I use on a relatively regular basis from a state
12 to state.

13 Can I see those, please?

14 A Sure.

15 MR. CAFRITZ: Why don't we go ahead
16 and mark these documents as Exhibits 2 and 3,
17 please. Why don't we make 2, 46.2-846. That
18 deals with right turns. 46.2-804 on lanes
19 markings on highways.

20 (Turner-2, an Email, is marked for
21 identification.)

22 (Turner-3, an Email, is marked for
23 identification.)

24 BY MR. CAFRITZ:

25 Q Did you ever review any Virginia

1 one of them, an orange tab?

2 A Oh, yeah. That's just the actual
3 address of where the inspection was taking place.

4 Q What date was that inspection?

5 A November 3rd, 2014. There's site
6 inspection and truck inspection. Then there is
7 the original files for the Duces Tecum that was
8 provided to you. My CV, of which is your copy.
9 Then there is -- this is a duplicate essentially
10 of this here.

11 Q Which is -- when you say this and --

12 A I apologize. This essentially is a
13 duplicate of the Duces Tecum in a binder form
14 here. And then there is also in here some discs
15 that have photos and a video and such of things
16 of that nature. It's a black binder, three-ring
17 binder, inch and a half.

18 Q Have all those documents been
19 produced?

20 A They have.

21 Q In that black binder?

22 A They have.

23 Q What's --

24 A By one party or another.

25 MR. SETHI: My suggestion is at a

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1 break just take a look, but I mean, that's all
 2 something else.
 3 MR. CAFRITZ: Yeah. Okay.
 4 THE WITNESS: And this here is
 5 basically some field notes that I had out at the
 6 time, just dimensions and stuff, nothing other
 7 than dimensions of the truck itself.
 8 Q Is it just one page of notes?
 9 A One page, that's it.
 10 MR. CAFRITZ: Why don't we go ahead
 11 and mark that. I don't think I have seen that
 12 before. Can we use that as an exhibit as Number
 13 4?
 14 THE WITNESS: Yeah. It just
 15 basically gives the specs of the commercial motor
 16 vehicle. It gives the VIN number and dimensions
 17 of wheel bases and so forth and widths and such.
 18 BY MR. CAFRITZ:
 19 Q Were those notes -- those are in
 20 your handwriting?
 21 A They are.
 22 Q Were these all notes that were taken
 23 during the November 3rd, 2014, inspection?
 24 A That's correct.
 25 (Turner-4, Handwritten Notes, are

1 you.
 2 Q -- report?
 3 A If you put the date in, if you put
 4 NTSB safety recommendations and put the date
 5 April 3, 2014, and if you put in H14 -- when you
 6 get to that site, you put in H14001 through 007.
 7 And that will give you this document.
 8 Q Who is the author of that?
 9 A NTSB, National --
 10 Q The person who wrote it?
 11 A It's the NTSB. It's the Honorable
 12 David J. Freedman from NTSB.
 13 Q Can we just have an agreement -- I
 14 don't want to take your only copy for -- if we
 15 are having some difficulty locating it for some
 16 reason --
 17 A I can get you a copy.
 18 MR. SETHI: We'll get you a copy.
 19 Not a problem.
 20 MR. CAFRITZ: Thank you.
 21 THE WITNESS: Then there is the
 22 National Safety Council guide to determine motor
 23 vehicle accident preventability, which is an
 24 orange booklet.
 25 BY MR. CAFRITZ:

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1 marked for identification.)
 2 BY MR. CAFRITZ:
 3 Q Okay.
 4 A Then there is -- these are standards
 5 of care that are listed in the back of my
 6 documents reviewed section, the NTSB safety
 7 recommendations.
 8 Q I don't think I have seen that
 9 before. Is that something that --
 10 A You -- you have a copy, but I can
 11 certainly provide it again. It's not a problem.
 12 Q Is that your only copy? Because I
 13 don't want to attach and deprive you of it. I
 14 just want to make sure I --
 15 A I believe it is, yes.
 16 Q Can I see it, please?
 17 A Sure.
 18 Q Where could this be located? Is it
 19 something that can be located online?
 20 A Yes. If you put the numbers in
 21 there, there are specific numbers that refer to
 22 that.
 23 Q At the bottom -- is that the number
 24 at the bottom of the --
 25 A Here. Let me see. I could tell

1 Q That was actually cited in your
 2 report; correct?
 3 A It is.
 4 Q All right.
 5 A Then there is from the FMCSA, it's
 6 -- actually, this is pre FMCSA. It's the Federal
 7 Highway Administration, FHWA. This is the
 8 commercial vehicle preventable accident manual, a
 9 guide to countermeasures.
 10 Q What is the date of that?
 11 A April 1997.
 12 Q Has that been superseded at any
 13 point since its publication?
 14 A I don't believe so, no. It wouldn't
 15 have been, because FHWA no longer exists. I
 16 don't believe FMCSA has ever superseded this
 17 particular document. Everything in here
 18 relevant. Then you have the FMCSR, which is the
 19 Federal Motor Carrier Safety Regulations.
 20 Q What is the publication date of that
 21 version?
 22 A Sure. November 2011.
 23 Everything that's in here would be
 24 relevant at the time of the crash. Then you have
 25 MUTCD, which is Manual on Uniform Traffic Control

<p style="text-align: right;">Page 30</p> <p>1 Devices.</p> <p>2 Q Who is the author of that?</p> <p>3 A It is MUTCD. MUTCD is part of the</p> <p>4 Department of Transportation where they provide</p> <p>5 for construction zones and so forth, flagging,</p> <p>6 advanced warnings, setups and so forth for</p> <p>7 construction zones, things of that nature. And</p> <p>8 they also discuss lines in here as well, highway</p> <p>9 lines.</p> <p>10 Q What is the date of that?</p> <p>11 A This is the most current edition,</p> <p>12 2009.</p> <p>13 Q Is there anything in the MUTCD that</p> <p>14 discusses operating a commercial motor vehicle in</p> <p>15 confined spaces?</p> <p>16 A You are going to have to define for</p> <p>17 me confined space, because I am thinking of</p> <p>18 1910.146 of OSHA. Define for me what you're</p> <p>19 referring to as a confined space.</p> <p>20 Q Small spaces off the public roads,</p> <p>21 private driveways, private entrances, of that</p> <p>22 nature.</p> <p>23 A I thought that's what you're</p> <p>24 referring to, but no. It doesn't discuss those</p> <p>25 issues.</p>	<p style="text-align: right;">Page 32</p> <p>1 Countermeasures.</p> <p>2 BY MR. CAFRITZ:</p> <p>3 Q Who is the company that created</p> <p>4 this?</p> <p>5 A The transportation forum.</p> <p>6 Q Is this something that we can keep</p> <p>7 also such as the last one?</p> <p>8 A No. Because that's actually an</p> <p>9 exhibit on another matter as well that's a</p> <p>10 current case.</p> <p>11 Q Okay. I want to make this -- why</p> <p>12 don't we make it as an exhibit on this case as</p> <p>13 well.</p> <p>14 A Sure. Sure.</p> <p>15 Q And you will be charged with keeping</p> <p>16 possession of that.</p> <p>17 A Sure.</p> <p>18 Q I don't want to deprive the</p> <p>19 brilliant counsel in your other case of being</p> <p>20 able to do what they need to do.</p> <p>21 (Turner-6, Document entitled,</p> <p>22 "Predicting Truck Crash Involvement" is marked</p> <p>23 for identification.)</p> <p>24 BY MR. CAFRITZ:</p> <p>25 Q He is going to maintain possession</p>
<p style="text-align: right;">Page 31</p> <p>1 Q How about the Federal Motor Carriers</p> <p>2 Safety Regulations? Do they discuss anything</p> <p>3 specifically to operating commercial vehicles in</p> <p>4 a confined space as I just defined it?</p> <p>5 A In a tight area like that? No. Not</p> <p>6 that I am aware of.</p> <p>7 Q Okay.</p> <p>8 A Then you also have three more</p> <p>9 documents here. You have ATRI, which is American</p> <p>10 Transportation Research Institute, predicting</p> <p>11 truck crash involvement, which is a -- kind of a</p> <p>12 beige document.</p> <p>13 If you like, you can keep that one.</p> <p>14 Q Thank you. Go ahead.</p> <p>15 MR. SETHI: Do you want to mark that</p> <p>16 or no?</p> <p>17 (Turner-5, Document entitled,</p> <p>18 "Predicting Truck Crash Involvement" is marked</p> <p>19 for identification.)</p> <p>20 THE WITNESS: Then the next document</p> <p>21 is by the Transportation Research Forum, and the</p> <p>22 date of this document is January 17, 2006, and</p> <p>23 the document is entitled as Predicting Truck</p> <p>24 Crash Involvement: Developing a Commercial</p> <p>25 Driver Behavior Model and Requisite Enforcement</p>	<p style="text-align: right;">Page 33</p> <p>1 -- on the record, Turner-6 with the qualification</p> <p>2 that if we cannot find a copy of this --</p> <p>3 A It's easy to find.</p> <p>4 Q Okay.</p> <p>5 A If you go by what I just put into</p> <p>6 the transcript as far as the title and such,</p> <p>7 you'll find it very easily.</p> <p>8 MR. SETHI: And you know what else</p> <p>9 we'll do, Brian? We will have the staff here on</p> <p>10 a break cover the first page for you.</p> <p>11 MR. CAFRITZ: Great.</p> <p>12 THE WITNESS: I believe that the</p> <p>13 first page is actually produced in the Duces</p> <p>14 Tecum for the Rule 26.</p> <p>15 MR. SETHI: We will copy it at the</p> <p>16 break.</p> <p>17 MR. CAFRITZ: Great. Thank you.</p> <p>18 BY MR. CAFRITZ:</p> <p>19 Q And your last document?</p> <p>20 A The last document is Prioritizing</p> <p>21 Improvements to Truck Driver Vision, and it's by</p> <p>22 Matthew Reed, Dan Blower, and Michael Flannagan.</p> <p>23 It's May 2006.</p> <p>24 Q Should we do the same thing with</p> <p>25 that?</p>

<p style="text-align: right;">Page 34</p> <p>1 MR. SETHI: Sure.</p> <p>2 THE WITNESS: That's publicly</p> <p>3 available as well.</p> <p>4 (Turner-7, Document entitled,</p> <p>5 Predicting Truck Crash Involvement" is marked for</p> <p>6 identification.)</p> <p>7 BY MR. CAFRITZ:</p> <p>8 Q Mr. Turner, have you ever been</p> <p>9 qualified as an expert in the state of Virginia?</p> <p>10 A I don't recall if I was qualified as</p> <p>11 an expert in Virginia in particular.</p> <p>12 Q Have you ever been offered as an</p> <p>13 expert in the case and been denied or been not</p> <p>14 allowed to testify as an expert?</p> <p>15 A No. The only -- I have never been</p> <p>16 denied the ability to -- or the ability to go</p> <p>17 ahead and testify as an expert for what I was</p> <p>18 retained for, with the exception there was a</p> <p>19 partial in the state of Massachusetts. It was in</p> <p>20 Boston. There was a trial on an airport cart,</p> <p>21 which was still considered a vehicle, that it was</p> <p>22 an off-tracking matter. And I was testifying</p> <p>23 both on the off-tracking matter of the</p> <p>24 articulated vehicle and some of the OSHA-related</p> <p>25 matters.</p>	<p style="text-align: right;">Page 36</p> <p>1 by definition a commercial motor vehicle when I</p> <p>2 am moving cattle with my fifth-wheel trailer. So</p> <p>3 it has a lot of the same issues other than the</p> <p>4 foundation air brake system, off-tracking and</p> <p>5 things of that nature, proper mirror usage and so</p> <p>6 forth. So I do move cattle quite frequently with</p> <p>7 what would be considered, based on the weight</p> <p>8 factors, a commercial motor vehicle.</p> <p>9 Q Would it be a Class B vehicle?</p> <p>10 A No. Actually, depending upon -- no.</p> <p>11 It actually would be Class A, because it is</p> <p>12 articulated. It is a fifth-wheel vehicle. But,</p> <p>13 again, I am not required to have a CDL because of</p> <p>14 the fact that it's a farmer that's moving his own</p> <p>15 animals.</p> <p>16 Q What is the make and model of that</p> <p>17 vehicle?</p> <p>18 A Well, first off, the truck would be</p> <p>19 a Ford F-250, and the trailer would be a -- with</p> <p>20 the amount of cattle in it, we get up over --</p> <p>21 well over 10,000 pounds. Now, you know what? I</p> <p>22 am not certain -- 100 percent certain if it would</p> <p>23 be a Class B or Class A at this point without</p> <p>24 actually weighing it. So it might be a Class B.</p> <p>25 I am not 100 percent certain at this point. If</p>
<p style="text-align: right;">Page 35</p> <p>1 There was -- if I remember correctly</p> <p>2 how it went, the judge -- there was another</p> <p>3 person that was testifying on the OSHA-related</p> <p>4 matters, and he didn't want redundancy. So he</p> <p>5 asked me to not testify on OSHA-related matters</p> <p>6 but testify on the commercial motor vehicle</p> <p>7 aspects.</p> <p>8 Q Is that the only time your testimony</p> <p>9 has been limited by a court?</p> <p>10 A Yes, sir.</p> <p>11 Q Is that -- was that the Curly versus</p> <p>12 United Parcel Services case?</p> <p>13 A Yes.</p> <p>14 Q You are not a CDL holder?</p> <p>15 A No longer.</p> <p>16 Q When is the last time you drove a</p> <p>17 commercial motor vehicle?</p> <p>18 A You mean on public roadways?</p> <p>19 Q Yes.</p> <p>20 A On public roadways -- well, I can</p> <p>21 technically drive a commercial motor vehicle, of</p> <p>22 which I do, based on the fact that I am a farmer.</p> <p>23 And it's exempt under the regulations, so I am</p> <p>24 not required to have a CDL for that purpose.</p> <p>25 So I move what would be considered</p>	<p style="text-align: right;">Page 37</p> <p>1 we are running a five head of cattle in there at</p> <p>2 2,000 pounds apiece plus a steel trailer and</p> <p>3 such, we are well exceeding that weight.</p> <p>4 Q But that's a pickup truck with a</p> <p>5 large trailer in the back?</p> <p>6 A Fifth-wheel trailer. That's</p> <p>7 correct.</p> <p>8 Q Other than that vehicle, when is the</p> <p>9 last time you drove what would be considered a</p> <p>10 commercial motor vehicle?</p> <p>11 A On the roadways, on interstates and</p> <p>12 so forth, that would have been last year of my CV</p> <p>13 where it shows I was driving commercial motor</p> <p>14 vehicles, which I believe would have been maybe</p> <p>15 1988. I would have to double check my CV,</p> <p>16 though, to confirm that.</p> <p>17 Q I think that was correct actually.</p> <p>18 My recollection was '85 to '88.</p> <p>19 A It was thereabouts, 1988.</p> <p>20 Q Yes. '85 to '88 is what you state</p> <p>21 on your CV.</p> <p>22 A Okay.</p> <p>23 Q At your inspection on November 3rd,</p> <p>24 2014 -- by the way, is that the only time you</p> <p>25 were at the accident scene?</p>

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1 A Yes, sir.
 2 Q The entirety of all the measurements
 3 that you took, is that identified and listed on
 4 Turner Exhibit-4?
 5 A Yes, sir. They're just simple field
 6 notes.
 7 Q You didn't take any measurements of
 8 the parking lot or driveway or entrances to the
 9 Sunoco?
 10 A The reason I didn't is because I
 11 felt confident and comfortable in going off the
 12 measurements and dimensions that were provided --
 13 or going to be provided by the licensed surveyors
 14 that were out there and retained by plaintiff's
 15 counsel.
 16 Q Did you perform any calculations in
 17 forming your opinions on this case based on the
 18 size of the parking lot and entrances and the
 19 size of the vehicle?
 20 A Other than looking at the entryway
 21 that Mr. Church used, I am able to come up with
 22 some -- I am able to demonstrate that there's a
 23 -- I didn't use any technical calculations, but I
 24 am able to demonstrate that in my opinion that he
 25 would have been able to easily maneuver that

1 stops?
 2 A The what?
 3 Q Axle stops.
 4 A The axles themselves?
 5 Q The axle stops. Do you know what
 6 the axle stops are on the truck?
 7 A I am not familiar with that term.
 8 Can you define it for me?
 9 Q Well, if you don't know, I'm
 10 assuming -- did you do any measurements on the
 11 axles?
 12 A I did. But from the axles as far as
 13 dimensions, as far as width, as far as from
 14 center of axle, the drives and so forth, I did
 15 all those dimensions as well. But you may -- the
 16 reason I ask what you mean by axle stops is
 17 because I may have it as another definition.
 18 Q Did you measure the most extreme
 19 angle at which the front tires could move before
 20 being stopped in a turn from that truck?
 21 A No, sir.
 22 Q You would agree that the size of the
 23 tires will be a factor in the turning radius of a
 24 truck; correct?
 25 A It's not so much the size of the

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1 commercial motor vehicle into that opening
 2 without having to have taken more than just a
 3 right lane that he would have -- that he should
 4 have been occupying.
 5 Q Let me ask you this. Did you
 6 measure the size of the tires on the Sunbelt
 7 truck?
 8 A I believe we did, yes.
 9 Q What were the size of the tires?
 10 A I don't recall. Could I see that
 11 paper? The size of the tires really are not that
 12 significant of an issue as far as I was concerned
 13 at that point in time. Front tire is three foot,
 14 three and a half inches. And I believe that was
 15 consistent for the vehicle.
 16 Q Consistent for the vehicle meaning
 17 what?
 18 A I believe they were all three foot,
 19 three and a half inches.
 20 Q All wheels -- all tires?
 21 A I believe so. But I did not look at
 22 that as a significant factor as to whether he was
 23 able to make that turn or not. It was not a
 24 factor at all in my opinion.
 25 Q Did you examine or look at the axle

1 tires. It's more the distance. Can I see the
 2 document for a second, please? It's more going
 3 to be the distance between the center line of the
 4 tires. So in other words, your tandem rears to
 5 your steering axle, that's what is going to make
 6 a major determination as to the distance -- or
 7 the turning radius itself.
 8 Q So it's your opinion that the size
 9 of the tires does not have a marked impact on the
 10 turning radius of the vehicle?
 11 A In this particular case here, no.
 12 Q Why not?
 13 A Well, I wasn't doing an accident
 14 reconstruction on this. I wasn't doing actual
 15 accident reconstruction on this because there is
 16 not enough evidence to be able to do a
 17 reconstruction, such as skid marks or gouge marks
 18 that you would see customarily in a crash. You
 19 can only come up with best estimates by looking
 20 at the video.
 21 So in looking at the video, you can
 22 clearly see the commercial motor vehicle coming
 23 across the second -- what I am going to call
 24 actually the third lane, then crossing the fourth
 25 lane in order to be able to cut into that parking

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1 lot. So looking at all that information and the
2 video itself, that's the best that you can
3 ascertain as to reconstructing what happened.
4 Q So you just a few moments ago stated
5 that you made -- had an opinion that truck could
6 -- that you felt it could make that right turn
7 from the right lane, and part of that would be
8 dependent upon the turning radius of the truck.
9 Agreed?

10 A It would have -- if the vehicle was
11 in that right lane -- now here -- let me -- I
12 didn't think it was necessary, and there's
13 several reasons. And if I can elaborate on
14 those, I think it's important. All right? Is
15 that Mr. Church testified that he typically
16 turned into that entryway that was 50 feet, 6
17 inches wide where he had the accident. Right.
18 He testified that typically he took that
19 entryway, and he also testified that he would do
20 it from the right lane.

21 So that being the case, if he says
22 that he's in the right lane and he is making that
23 turn into the -- into that parking lot, that
24 50-foot, 6-inch wide parking area, in my mind
25 there should be no problem. There shouldn't have

1 Q You didn't ask to drive the Sunbelt
2 truck, did you?

3 A No, sir.

4 Q Did you drive any vehicle -- any
5 commercial vehicle through the intersection or
6 through the Sunoco entrance?

7 A No, sir.

8 Q If Mr. Clark testified that he tried
9 to drive the exact same --

10 A Mr. Clark?

11 Q Strike that. Strike that. I
12 apologize.

13 Is it your opinion that the Sunbelt
14 truck could have successfully turned right into
15 the parking lot from the right lane?

16 A I am going by -- in my opinion, yes.
17 And that's supported both by my experience,
18 number one.

19 Number two, it's supported by the
20 50-foot, 6-inch wide opening.

21 Number three is the testimony of
22 Mr. Church where he said that he used that
23 entrance all the time, and he testified that he
24 stays in the right lane.

25 Q So that's a yes?

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1 to be the need for recreation.

2 Q I am not asking any of that. It's
3 true, though, you did not do any calculations or
4 do any investigations to determine the turning
5 radius of this Sunbelt truck; correct?

6 A I didn't think it was necessary.

7 Q That's a no, you did not?

8 A That's correct.

9 Q You have read the opinions of Jeff
10 Clark, the expert for Sunbelt?

11 A I just received those, and I only
12 had the opportunity to take a look at the
13 opinions.

14 Q You didn't --

15 MR. SETHI: He is not testifying as
16 an rebuttal expert.

17 BY MR. CAFRITZ:

18 Q You didn't drive the Sunbelt truck
19 at any point in time in forming your opinions;
20 correct?

21 A No, sir.

22 Q And you didn't drive any rollback
23 truck or other commercial vehicle through that
24 parking lot entrance, did you?

25 A No, sir.

1 A It's not a yes-or-no answer, sir.

2 Q It really -- I thought -- I think it
3 was a yes-or-no answer.

4 A I just have a tendency as a typical
5 expert to pontificate on issues.

6 Q Does that include -- well, you
7 would agree that as an expert on safe operation
8 of motor vehicles, a prudent commercial vehicle
9 operator needs to consider not just the move he
10 is making but what he is going to have to do
11 immediately after that -- after a specific
12 maneuver; correct?

13 A I would agree with that.

14 Q They have to project, I think, all
15 the way through, not just on what is happening
16 immediately in front of them, but what -- in
17 front of them, behind them, and what is going to
18 happen; correct?

19 A I would agree with that.

20 Q And part of the analysis of what a
21 smart and careful truck driver would do be not
22 just once he turns into the parking lot of the
23 Sunoco but what he is going to do once he is
24 inside the parking lot. Agreed?

25 A I agree with that provided that he

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1 is not violating any statutes, regulations, be it
2 FMCSR or Commonwealth of Virginia statutes as far
3 as roadway violations or moving violations. If
4 he were to remain in those confines, I would
5 agree with that.

6 Q Do you consider backing a vehicle
7 into an open roadway -- backing a commercial
8 motor vehicle into the open roadway a hazardous
9 matter maneuver?

10 A Backing a vehicle -- a commercial
11 motor vehicle into an open roadway as a hazardous
12 maneuver? Of course.

13 Q Do you know -- well, if Mr. Clark,
14 the trucking expert for Sunbelt, testified that
15 if he made the right turn into the Sunoco lot
16 from the far right lane, that it could not be
17 done without having to back the truck into Route
18 11, would you agree or disagree with that?

19 A I would tell you that he is
20 absolutely incorrect, and it's nonsensical
21 opinion.

22 Q Based on what?

23 A Based on the fact that -- I am glad
24 you asked that question. Based on the fact that
25 the opening is 50 feet, 6 inches wide. Okay?

1 commercial motor vehicle. He has testified that
2 he has done that in the past.

3 So I take all that information. I
4 look at those dimensions. And based on my
5 experience and based on my knowledge and
6 training, I look at that, and even the Google
7 image -- the Google Earth image. You look at all
8 that, and there is just no way -- and that's
9 probable that he could not make that turn safely
10 without backing onto Route 11.

11 Q Have you now stated the entirety of
12 all facts that you rely upon to refute

13 Mr. Clark's opinion that it could not be made?

14 A Not necessarily. I would have to
15 give it some more thought, but that would be the
16 basis of it.

17 Q You're aware of the location in the
18 parking lot where Mr. Clark -- I am sorry --
19 Mr. Church was intending to drive the truck at
20 the gas pumps; correct?

21 A Yes.

22 Q And the analysis that you just
23 provided, is that -- did you consider the
24 location where he needed to get to fuel his
25 vehicle as part of that dissertation you just

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1 Now, if you take that into account, that's almost
2 about the same width as the overall highway, all
3 four lanes. Okay?

4 If he is in the right-hand lane and
5 he has a 50-foot, 6-inch wide opening that he is
6 able to take his commercial motor vehicle into
7 unobstructed, then at that point there, if you
8 look at a commercial motor vehicle -- a Class A
9 CDL vehicle, 18-wheeler, and that 18-wheeler is
10 going to be making a right-hand turn into an
11 11-foot wide lane on the right-hand side at a
12 traffic light, for an example, he is going to
13 have to button hook his turn. And in the process
14 of doing a button hook, he is going to take part
15 of the other side of the 11-foot lane, which is
16 the oncoming traffic. All right?

17 That's 22 feet. And you're able to
18 do that successfully with an 18-wheeler. So I
19 know that if he had 50 feet, which is two times
20 over -- well over two times that width, there is
21 no reason in the world why he should not be able
22 to make that right-hand turn into a 50-foot wide
23 area regardless of turning radius -- and not only
24 that, Mr. Church testified that he has done that
25 before. Now, he's supposed to know his

1 gave?

2 A I did.

3 Q You have not driven the truck to
4 test that theory; correct? A truck.

5 A I don't need to.

6 Q Have you played a role in the
7 creation of the CDL manuals for any state?

8 A Do I play a role?

9 Q Yeah. Have you been involved in the
10 drafting or publication of any CDL manuals?

11 A No, sir.

12 Q Have you played any role in the
13 development of curriculum of CDL driving courses?

14 A No, sir.

15 (Whereupon, a recess is taken.)

16 BY MR. CAFRITZ:

17 Q Sir, have you developed -- or I am
18 sorry.

19 Have you played any role in the
20 development of any curriculum for CDL driving
21 courses?

22 A No, sir.

23 Q Have you played a role -- any role
24 in the administration of CDL testing?

25 A No, sir.

<p style="text-align: right;">Page 50</p> <p>1 Q By the way, there is no law or 2 regulation that prohibits the Class B truck from 3 entering that Sunoco station; correct? 4 A None that I am aware of. 5 Q Isn't it true that trucks frequently 6 use that Sunbelt gas station for fuel? 7 A The Sunbelt gas station? 8 Q I am sorry. The Sunoco gas station. 9 A Yeah. But I would think that they 10 -- if they're coming off of Highway 11, sensibly 11 I would think that they would probably -- not 12 18-wheelers. I don't see -- I wouldn't imagine 13 18-wheelers would use that frequently or if at 14 all because of the inability to maneuver their 15 CMVs. 16 Q What do you mean inability to 17 maneuver their CMVs? 18 A An 18-wheeler, 53-footer pulling 19 into there at the islands, the pump islands and 20 such, I just don't see that being logical or -- 21 you know, potentially could be dangerous. 22 Q Why? 23 A The inability to maneuver their 24 commercial motor vehicle in such a -- in -- a 25 large commercial motor vehicle which is 70 feet</p>	<p style="text-align: right;">Page 52</p> <p>1 to as a straight job such as what was being 2 operated by Mr. Church, if they're coming in 3 there for diesel fuel, I would say that they -- 4 if they're coming off Route 11, they would likely 5 be coming in the entrance that's the most 6 southern entrance right by Pactiv Way traffic 7 light. 8 If they're coming in -- straight job 9 trucks are coming from Precision Drive and 10 crossing Pactiv Way, then they would take the 11 Pactiv Way entrance, which would, of course, be 12 the most safe entryway, which we, of course, saw 13 later on in the video that maybe an hour later or 14 whatever it was, that's the way Mr. Church came 15 in to refuel his vehicle. 16 Q You didn't drive a commercial truck 17 through the Pactiv Way entrance, did you? 18 A No, sir. 19 Q You referenced something earlier 20 from the Federal Motor Carrier Safety Regulations 21 called the 20 points of knowledge. 22 A 383.111. 23 Q Have you committed them all to 24 memory? 25 A No. It's not necessarily that you</p>
<p style="text-align: right;">Page 51</p> <p>1 long, it could pose a problem to maneuver their 2 vehicle improperly. 3 Q In what sense? How would it be a 4 problem? 5 A Just in general terms. I mean, you 6 know, the inability -- you don't have enough room 7 for a 70-foot 18-wheeler to be able to maneuver 8 around inside there. 9 Q Is it because there would be hazards 10 in the parking lot that could be striking things? 11 A With a vehicle that size? 12 Q Yes. 13 A Very possible. 14 Q What kind of -- like we are talking 15 cars and pumps and -- 16 A Well, if a driver was not paying 17 attention, if he wasn't -- if he was backing up 18 and he didn't do -- if he didn't do his proper 19 backup protocols and so forth, he could have a 20 problem. 21 So if he was operating unsafely in 22 that area, he's going to possibly have a problem. 23 And, again, I want to emphasize. That's with a 24 70-foot long tractor-trailer. 25 If it's a straight -- what we refer</p>	<p style="text-align: right;">Page 53</p> <p>1 commit the -- can you sit there and commit each 2 individual number one, number two, number three, 3 number four, number five? It's more or less what 4 you're doing is you're making sure that you're 5 applying those 20 points of knowledge in 6 operating of a commercial motor vehicle. 7 So as you're driving down a road, 8 for example, you're going to be checking your 9 mirrors frequently so that you can maintain a 10 proper space cushion. You're going to make sure 11 that your following distance is appropriate based 12 on the length of your commercial motor vehicle 13 and your speed to make sure that you're complying 14 with 383.111, you know, things of that nature. 15 So it's not necessarily should a 16 driver be capable of listing each one of those in 17 a number-1-through-20 basis, but they need to 18 absolutely be applying those required knowledge 19 -- and I'll emphasize the term required. They 20 have to be able to make sure that they're 21 applying that required knowledge while operating 22 a commercial motor vehicle to demonstrate that 23 required knowledge is being used. 24 Q It's your opinion that an 25 experienced and safe commercial motor vehicle</p>

<p style="text-align: right;">Page 54</p> <p>1 operator would not be required to regurgitate or 2 recite all 20 points of knowledge on demand; 3 correct? 4 A I don't think that that would be 5 absolutely reasonable to say that they should be 6 able to cite them. But, again, to use those -- 7 Q Can you just answer the question? 8 A To use those points of required 9 acknowledge is absolutely prudent and required. 10 Q In fact, the statute that you cite 11 -- and by the way, that's the only -- after we 12 consider all of the withdrawals of opinions that 13 Mr. Sethi has gone through, the only Federal 14 Motor Carrier Safety Regulation that you would 15 have cited in your report would be -- is it 16 383.111? 17 A 383.111. 18 Q So that would be the only specific 19 cite that you have left in the federal -- or 20 FMCSR? 21 A Well, I mean, there is a lot of 22 other -- there's a lot of other -- like -- 23 Q Sir, just -- it's a yes or no. Can 24 you -- 25 A Sir, it's not a yes or no. You're</p>	<p style="text-align: right;">Page 56</p> <p>1 then as the next exhibit, which I believe would 2 be 8. 3 (Turner-8, Mr. Turner's Report, is 4 marked for identification.) 5 BY MR. CAFRITZ: 6 Q If we look at 383.111 -- 7 A Right. 8 Q -- nowhere in it is this section 9 labeled or titled the 20 points of knowledge; 10 correct? 11 A It's required knowledge. 12 Q Right. But it is not labeled or 13 called the 20 points of knowledge; right? 14 A In my report? 15 Q No. No. In the statute. 16 A It's labeled as required knowledge. 17 Q Nowhere is there, quote, unquote, in 18 that section the 20 points of knowledge; correct? 19 A No. It doesn't say that 20 specifically. 21 Q Okay. And isn't it true that 22 383.111 is a regulation that's directed towards 23 the CDL testing agencies? 24 MR. SETHI: You said is 381.11. Is 25 it 110?</p>
<p style="text-align: right;">Page 55</p> <p>1 asking me a question, so I am trying to provide 2 you an answer. 3 Q The question simply is there any 4 other specific citation in your report to the 5 FMCSR other than 383.111 once we factor in 6 Mr. Sethi's withdrawals? 7 A In the report itself specifically, I 8 don't believe so. 9 Q Your report contains the entirety of 10 the opinions you intend to give in this case; 11 correct? 12 A At this point in time, yes. Unless 13 additional information is -- comes up at a later 14 point in time. 15 Q Okay. So 383.111, why don't you go 16 ahead and go to that, please. 17 A Okay. In the report. 18 Q Yes. 19 MR. CAFRITZ: We will go ahead and 20 mark your report as Exhibit-8. 21 BY MR. CAFRITZ: 22 Q Can you take a look at this and 23 confirm that that's a copy of your report? 24 A It seems to be all here, yes, sir. 25 MR. CAFRITZ: Why don't we mark that</p>	<p style="text-align: right;">Page 57</p> <p>1 THE WITNESS: It is 111. 2 MR. CAFRITZ: 383.111. The next 3 page. 4 MR. SETHI: Okay. 5 BY MR. CAFRITZ: 6 Q That's fine. Did you answer? 7 A No, I didn't. It is the foundation 8 and the basis of all CDL manuals across the 9 country. So all CDL manuals, the states will 10 refer to 383.111 in development of their CDL 11 manuals, in addition to defensive driver training 12 program and standards of care all base their 13 training. For example, Smith-System or National 14 Safety Council's defensive driver training 15 program all bases it on 383.111. 16 Q So the idea behind 383.111 is to 17 identify the areas of knowledge that every truck 18 driver should be trained and educated on so they 19 can operate their vehicle properly; correct? 20 A Well, if we are going to use the 21 term "should," I wouldn't use that. I would say 22 must. 23 Q Okay. Must. In fact, 383.110 24 identifies this as the itemization of knowledge 25 and skills tests that administers to CDL</p>

<p style="text-align: right;">Page 58</p> <p>1 applicants; correct?</p> <p>2 A That's correct.</p> <p>3 Q Now, Mr. Church is not a testing</p> <p>4 agency; correct?</p> <p>5 A It doesn't really matter whether he</p> <p>6 is a test agency or not. He is not, of course,</p> <p>7 but --</p> <p>8 Q Thank you. That was the answer to</p> <p>9 my question.</p> <p>10 A But I am not done.</p> <p>11 Q Sir --</p> <p>12 A It doesn't matter. I am not</p> <p>13 through, and I have the right, Counselor, to</p> <p>14 answer the question --</p> <p>15 Q You did answer the question.</p> <p>16 A But I am not done. My answer is not</p> <p>17 complete. Okay?</p> <p>18 Mr. Church, whether he is a testing</p> <p>19 agency or not, is irrelevant. He is driving a</p> <p>20 commercial motor vehicle. Therefore, he is</p> <p>21 required to utilize the parts of 383.111 in the</p> <p>22 operation of his commercial motor vehicle, which</p> <p>23 is in relation to his CDL examination that he</p> <p>24 takes.</p> <p>25 Now, if he got his exam and 383.111</p>	<p style="text-align: right;">Page 60</p> <p>1 and sometimes there won't be.</p> <p>2 Q Sir, please focus on the question</p> <p>3 and answer. I am trying to be respectful.</p> <p>4 A Sure.</p> <p>5 Q And I understand you do not want to</p> <p>6 answer what is asked, but I am going to ask you</p> <p>7 -- instruct you you must answer the question</p> <p>8 that's asked.</p> <p>9 Now, 383.110 is an instruction to</p> <p>10 the testing agency, stating that the items in</p> <p>11 383.111 are the topics that the drivers must be</p> <p>12 tested on; correct?</p> <p>13 A That's correct.</p> <p>14 Q And Mr. Church took the CDL test for</p> <p>15 the state of Virginia; correct?</p> <p>16 A I believe it was West Virginia.</p> <p>17 Q I am sorry. West Virginia.</p> <p>18 Is it your statement or opinion that</p> <p>19 the CDL test of the state of West Virginia are</p> <p>20 not adequate?</p> <p>21 A No. I wouldn't say that at all.</p> <p>22 Q Is it your opinion that the CDL</p> <p>23 testing for the state of Virginia violated</p> <p>24 383.111?</p> <p>25 A No. By of virtue them having</p>
<p style="text-align: right;">Page 59</p> <p>1 was not fully in existence -- because it used to</p> <p>2 be, I believe, 16 rules of required rules. All</p> <p>3 right? So if Mr. Church -- if his company did</p> <p>4 not keep him up to speed on these regulations as</p> <p>5 they have a requirement to do -- they're required</p> <p>6 under the FMCSR to keep their drivers up to date</p> <p>7 on current regulations. That's as simple as</p> <p>8 that. So he is required to know and apply</p> <p>9 383.111.</p> <p>10 Q Sir, move to strike that last</p> <p>11 answer. It's not responsive.</p> <p>12 But let me explain. I understand</p> <p>13 you have a preset agenda of things you want to</p> <p>14 say regardless of whether a question is asked.</p> <p>15 That's not the purpose of the deposition. You're</p> <p>16 going to answer the question that's specifically</p> <p>17 asked, and you can answer the question.</p> <p>18 I am not disputing certain points</p> <p>19 you're trying to raise, but I need to move</p> <p>20 through a deposition and have you answer the</p> <p>21 question.</p> <p>22 A I understand that.</p> <p>23 Q So please --</p> <p>24 A But there's just not going to be a</p> <p>25 yes-or-no answer, sir. Sometimes there will be</p>	<p style="text-align: right;">Page 61</p> <p>1 interstate drivers -- licensing interstate</p> <p>2 drivers, they have to comply with 383.111.</p> <p>3 Q You're not questioning whether or</p> <p>4 not Mr. Church's passing of those tests was valid</p> <p>5 or not; correct?</p> <p>6 A No. I am not questioning that at</p> <p>7 all.</p> <p>8 Q So by virtue of that, Mr. Church</p> <p>9 would have illustrated and demonstrated to the</p> <p>10 state of West Virginia that he possessed the</p> <p>11 required 20 points of knowledge in order to pass</p> <p>12 the test that West Virginia CDL administered to</p> <p>13 him; correct?</p> <p>14 MR. SETHI: I will just note an</p> <p>15 objection. Speculation.</p> <p>16 THE WITNESS: That's correct.</p> <p>17 However, he's required to apply those. It is not</p> <p>18 just take the exam, go out and jump in a truck,</p> <p>19 and forget everything you were taught. And that</p> <p>20 seems to be the case here based on evidence.</p> <p>21 BY MR. CAFRITZ:</p> <p>22 Q Move to strike that last part.</p> <p>23 Mr. Church holds -- or did hold a</p> <p>24 Virginia CDL license at one point; correct?</p> <p>25 A I believe he did, yes.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q Is it your opinion that the State of 2 Virginia did not properly test Mr. Church in the 3 conformance with 383.111? 4 A No, sir. 5 MR. SETHI: And just so you know, we 6 are not going to make that contention through any 7 witness. 8 BY MR. CAFRITZ: 9 Q Is it your opinion that -- strike 10 that. 11 You would agree that it would be 12 imprudent for a commercial motor vehicle driver 13 to operate a commercial vehicle into a location 14 where he was unable to get a visual picture of 15 where he was going? 16 A Repeat that question again, please. 17 Q Would you agree that it would be 18 unsafe and unwise for a commercial motor vehicle 19 driver to operate his vehicle into a location 20 where he could not see what was happening? 21 A I would agree with that, yeah. 22 Q And I think I asked this. You never 23 drove a commercial vehicle or -- down Precision 24 Road where it intersected with Pactiv Way; 25 correct?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q And in that role and in your role as 2 a -- I believe you had a role of safety training, 3 correct, with your MM -- I forgot your acronym 4 for your company. 5 A The Hazmat, yeah. I did a lot of 6 safety training there for drivers, yes, sir. 7 Q And -- 8 A In addition to other motor carriers 9 too with the Smith-System and so forth. 10 Q Based on all that and safety and the 11 safe operation of vehicles is important to you. 12 Agreed? 13 A Absolutely. 14 Q And you would agree that traffic 15 laws are enacted to promote the safety on -- 16 promote safety to the drivers and users of the 17 roadways; correct? 18 A Of course. 19 Q And if people violate those traffic 20 safety laws, they're likely to create a danger to 21 themselves and those around them; correct? 22 A I would say that that's accurate. 23 Q Would you agree that the laws on 24 obeying traffic lights and signals are enacted 25 for the safety of those who are on the roadways?</p>
<p style="text-align: right;">Page 63</p> <p>1 A No, sir. 2 Q And you are unable to describe the 3 site picture that Mr. Church would have had at 4 Precision Drive -- on Precision Drive at the 5 intersection of Pactiv; correct? 6 A At the intersection or -- 7 Q At the intersection of Precision 8 Drive and Pactiv. 9 A No. I can't describe what the 10 conditions were at that given time, no. 11 Q So you don't know what he could and 12 could not see on the date of this accident; 13 correct? 14 A No. But based on his testimony, he 15 had -- he testified that there was a vehicle by 16 the pump that he was intending to occupy, and 17 that's the reason he didn't take the Pactiv Way 18 entrance. He said nothing about that there being 19 congestion or blockage at the entry point of 20 Pactiv Way. 21 Q You're a former state police 22 officer? 23 A No, sir. In my CV I was an 24 instructor -- adjunct instructor for the state 25 police for 11 years.</p>	<p style="text-align: right;">Page 65</p> <p>1 A I would agree with that. 2 Q Disobeying those laws on traffic 3 lights, that would create a danger to those in 4 and around the intersection. Agreed? 5 A I would agree that at that 6 intersection if somebody disobeys a law, there 7 could be a -- it could be an issue. 8 Q In this case Mr. Galloway went 9 through the intersection on a red light; correct? 10 A Yes. As far as I understand, he 11 did. 12 Q He went through this intersection 13 without waiting two minutes after he stopped; 14 correct? 15 A Well, I -- from what I understand -- 16 bear with me a second here. 17 Mr. Underwood, who personally I 18 think has an axe to grind, stated that he didn't 19 wait for the traffic signal. He just blew right 20 through it. Your expert testified or -- 21 testified or gave opinions that I believe he 22 stopped for a total of 39 seconds or something 23 like that. 24 Q Do you have any -- 25 A So --</p>

<p style="text-align: right;">Page 66</p> <p>1 Q -- reason or basis to refute that 2 opinion? 3 A That he stopped? 4 Q For 39 seconds or whatever it was 5 that Mr. Gunthorn (phonetic) identified. 6 A No. I don't have any means to 7 refute that. However, that kind of takes 8 Mr. Underwood's statements and really makes me 9 think of him as a person that has an axe to grind 10 or get flipped off. 11 Q Do you have any facts to rely on 12 that Mr. Galloway waited two minutes at the stop 13 light before entering the intersection? 14 A No. 15 Q And Mr. Galloway admitted that he 16 entered the intersection before the Sunbelt truck 17 had cleared the intersection and completing his 18 turn; correct? 19 A I-- 20 MR. SETHI: I am going to object to 21 the mischaracterization. 22 You can answer if you understand. 23 THE WITNESS: I don't really 24 understand the question. 25 BY MR. CAFRITZ:</p>	<p style="text-align: right;">Page 68</p> <p>1 I don't recall exactly what it was offhand. 2 BY MR. CAFRITZ: 3 Q Do you recall it being somewhere in 4 the range of 12 to 15 seconds? 5 A Somewhere in that neighborhood, yes, 6 sir. 7 Q You would agree that had Mr. 8 Galloway waited 10 to 15 seconds longer before 9 entering the intersection this accident wouldn't 10 have happened? 11 A Well, I look at these two issues of 12 what occurred and the violation of the traffic 13 light as being mutually exclusive. As to my -- 14 sir, as to my assignment, all right, my 15 assignment is to examine the commercial motor 16 vehicle operator, what he did right, what he did 17 wrong. All right? 18 These two issues here as far as I am 19 concerned from my opinion's standpoint is they 20 are mutually exclusive of each other. So what he 21 did at that point in time at the traffic light, 22 sure, it's a violation. It is a totally separate 23 issue. He had every right to be -- at the time 24 of the crash, he had every right to be where he 25 was.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q Okay. So at the point Mr. Galloway 2 entered the intersection, isn't it true that the 3 truck was still completing its turn while in the 4 intersection? 5 MR. SETHI: Turn onto where? 6 MR. CAFRITZ: Turn on -- I'm sorry. 7 The turn on from Pactiv onto Route 11. 8 THE WITNESS: I believe so, yes. 9 BY MR. CAFRITZ: 10 Q And are you aware of any emergency 11 situation that Mr. Galloway was facing at the 12 moment he entered the intersection? 13 A No, sir. 14 Q Isn't it true that Mr. Galloway 15 violated the traffic safety laws that governed 16 how he was to proceed at that intersection? 17 A I would believe so. 18 Q Do you know how long it took for the 19 Sunbelt truck to turn from Pactiv onto Route 11 20 to the point it reached of where the accident 21 occurred? 22 MR. SETHI: Objection to form. 23 THE WITNESS: I don't recall what 24 the timestamp footages were from the point that 25 he left the intersection to make the actual turn.</p>	<p style="text-align: right;">Page 69</p> <p>1 Q Sir, my question was: Had he waited 2 -- had Mr. Galloway waited 10 to 15 seconds at 3 that red light, he would not have been where he 4 was at the point when the accident occurred. 5 Agreed? 6 A Again, my answer stands where it was 7 before. 8 Q It's your testimony -- 9 A My testimony -- sir, my testimony is 10 that they are mutually exclusive issues from my 11 standpoint. 12 If you read the beginning of my 13 report in Section 4.0, assignment, which I can 14 read it into the court report -- to the court 15 reporter again if you like. It's not to examine 16 that issue. It is to examine what the commercial 17 motor vehicle operator did and what he did not do 18 to cause this crash. 19 And based on that and based on all 20 standards of care that I have examined, that I am 21 very familiar with, he -- it was a preventative 22 crash -- from the term preventative crash both 23 from an FMCSA standpoint as well as all standards 24 of care that I reviewed. It was preventative 25 from Mr. Church's perspective.</p>

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1 Q I move to strike. And I understand
2 you do not want to answer this question, but that
3 -- the question -- I am going to repeat it.

4 Had Mr. Galloway stayed at the light
5 for 10 to 15 seconds longer, he would not have
6 been at the spot he was at the time the accident
7 occurred; isn't that true?

8 A Sir, I am going to give you the same
9 exact answer I just gave you a moment ago.

10 Q Are you refusing to answer that
11 question?

12 A I -- no. What I am refusing to do
13 is give you an answer you want, which is
14 completely different than what my job -- excuse
15 me.

16 Q It's a factual question.

17 A What I am charged with from counsel
18 is to examine the commercial motor vehicle, what
19 it did right, what it did wrong. The two issues
20 of Mr. Galloway allegedly running the traffic
21 light and the crash occurring 200 feet away -- or
22 more than 200 foot away are mutually exclusive of
23 each other.

24 Mr. Galloway had every right to be
25 where he was at the time of the crash. There was

1 training, along with standards of care the, FMCSR
2 and any regulatory concerns regarding CMV
3 operations and violations that may have been
4 directly or indirectly contributive to this
5 crash."

6 Nowhere does it say anything about
7 what Mr. Galloway did 10 seconds prior, as you
8 said 10 seconds, or 15 seconds prior or 25
9 seconds prior. That was not my job assignment.
10 My job assignment is to look at -- I am a
11 commercial motor vehicle expert. That's what I
12 was assigned to look at. I can't change that
13 fact.

14 Q So you were instructed by counsel
15 not to factor in Mr. Galloway's actions?

16 A No. I -- no.

17 Q So you took it upon yourself not to
18 factor in his actions?

19 A Sir, no. You're misunderstanding
20 and misrepresent --

21 Q I just read what you -- I am going
22 by what you just read. You either considered
23 Mr. Galloway's actions or you did not. And what
24 I hear you saying, you did not.

25 A I considered the fact that he

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1 nothing precluding him from being there at that
2 point in time.

3 Q That's --

4 A Now, if -- we can look a week down
5 the road and say that one event, how far down the
6 line do you go. We can look at half hour. We
7 can look 10 miles down the road.

8 Q I am talking 10 seconds.

9 A Again --

10 Q Ten seconds down the road.

11 A Sir --

12 Q Are you saying that that doesn't
13 alter the point in the road where he would have
14 been. That's your opinion? That's your
15 testimony to the jury, that his waiting 10
16 seconds to enter the intersection did not alter
17 where he would have been on Route 11 at the time
18 of the accident?

19 A Again, for the benefit of the court
20 reporter, I am going to read my assignment into
21 the record, and -- but I am going to add on to
22 that. Okay?

23 "The undersigned has been requested
24 to examine all the document's reviewed section of
25 this report. apply the knowledge, experience, and

1 allegedly ran the traffic light, but I did not
2 tie it into the issues that a commercial motor
3 vehicle operator is obligated to do, which is
4 follow the requirements of both the CDL training,
5 Commonwealth of Virginia laws, as well as the
6 FMCSR and standards of care. And it's his
7 employer's obligation to make sure -- if he
8 didn't know the 20 points of required knowledge,
9 if he didn't understand those things, it's his
10 employer's obligation to make sure that he does.

11 Q Move to strike as nonresponsive.
12 Sir --

13 MR. SETHI: Let me -- can we take a
14 moment?

15 (Whereupon, a recess is taken.)

16 BY MR. CAFRITZ:

17 Q Sir, you would agree that all
18 drivers on the road have the duty to keep a
19 proper lookout and use ordinary care to look in
20 all directions for vehicles that would affect
21 their driving?

22 A Sure.

23 Q And that would apply to Mr. Galloway
24 as well as to Mr. Church; correct?

25 A Yes, sir.

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1 Q And if one fails to keep a proper
2 lookout for vehicles operating around them, he
3 can create a danger to himself and other drivers
4 of the road?

5 A Sure.

6 Q And this case when the Sunbelt truck
7 turned onto Route 10 from Pactiv Way, it was in
8 front of Mr. Galloway's Moped; correct?

9 A That's correct.

10 Q And as the Moped went into the
11 intersection under the red light and continued
12 north on Route 11, it was moving faster than the
13 tractor-trailer; correct -- or not the
14 tractor-trailer, the Sunbelt truck?

15 A You would think so, yes, in order to
16 be able to meet at the point that they met.

17 Q Yeah. In fact, the Moped caught up
18 to the truck and almost had passed it at the
19 point of the impact; right?

20 MR. SETHI: Object to the
21 characterization.

22 THE WITNESS: I would think that the
23 commercial motor vehicle would have been slowing
24 down in order to effect his turn, and that may
25 have caused the Moped to be overtaking him at

1 A Mr. Galloway.

2 Q Okay. In this case Mr. Galloway did
3 not see the Sunbelt truck as it turned from his
4 left across into the Sunoco lot; right?

5 A I don't think that he was expecting
6 that vehicle to --

7 Q Did he testify that he did or did
8 not see it?

9 A He testified, I believe, that he
10 didn't see it.

11 Q He did not see it?

12 A He did not see it.

13 Q I want to ask you about the turning
14 maneuver made by Mr. Church. Okay?

15 A All right.

16 Q Is it your opinion that trucks never
17 swing wide to make wide right -- to make right
18 turns?

19 A Define swing wide.

20 Q Well --

21 A Where? Where? Where are you
22 talking about swing wide?

23 Q In general. Can --

24 A Well, I mean, on the lane of travel
25 that they're originally on or once they make --

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1 that certain point.

2 BY MR. CAFRITZ:

3 Q You would agree up and to the point
4 of impact, the front of the Sunbelt truck would
5 have been at some point in front of -- in some
6 way or form, maybe to the left, in front of the
7 Moped. Agreed?

8 A I agree with that.

9 Q And as the truck turned from the
10 lanes of Route 11 into the Sunoco lot, it would
11 have been close enough to affect the operation of
12 the Moped; right?

13 A One more time, please.

14 Q Well, I am going to go back to the
15 statement that I made that the driver needs to
16 keep a proper lookout or an operator needs to
17 keep a proper lookout to see all vehicles that
18 would affect his driving. And as the truck
19 turned -- turned to the right across the lanes
20 into the Sunoco lot, it would have been close
21 enough that it would affect the driving and the
22 safe operation of the Moped; right?

23 A If he could have slowed down in
24 time.

25 Q He? Who is he?

1 they effect their turn?

2 Q On the lane that they are on prior
3 to making the turn, is it your opinion that
4 trucks will never swing to the left to make a
5 right turn?

6 A No. They're going to swing to the
7 left, but they're still restricted within travel
8 of what lanes they're allowed to take.

9 In other words, if they're in the
10 right lane where they're supposed to be when
11 they're effecting a right-hand turn, they're
12 going to swing -- they're going to go tight to
13 the curb initially, and then -- or the shoulder
14 initially, and then they're going to come to the
15 left in a button-hook-style turn where the button
16 hook is going to essentially going to take their
17 wheels and put them on the white line in this
18 case here and then make the right-hand turn. But
19 they're not -- they're not going to do a
20 jughandle turn, as which was essentially done
21 from Mr. Church.

22 Q So is it your opinion that in no
23 circumstances is a jughandle turn ever used by
24 truck drivers?

25 A Jughandle is not permitted,

<p style="text-align: right;">Page 78</p> <p>1 especially when you have a solid while line. You 2 have a solid white line, you're -- that -- it is 3 -- it is not prohibited, but it is highly 4 suggested not to cross that solid white line 5 according to FHWA. 6 Q So is that -- the answer is no, 7 truck drivers never make jughandle turns for a 8 right turn? 9 A Truck drivers are not supposed to 10 make right -- 11 Q Not what I asked. 12 A And my answer: Truck drivers, 13 according to CDL manuals, are not supposed to 14 make jughandle turns. 15 Q The question I asked you is: Are 16 you aware of instances where truck drivers have 17 made a jughandle turn that -- 18 MR. SETHI: Irrespective of the CDL 19 manual? 20 MR. CAFRITZ: Correct. 21 BY MR. CAFRITZ: 22 Q Irrespective of the CDL manual. 23 A Sure. It happens every day. 24 Q In fact -- 25 A It happens every day but</p>	<p style="text-align: right;">Page 80</p> <p>1 to swing wide to the left to avoid running over 2 objects or things on the right side of the truck? 3 A If they're going to do that, a 4 proper button hook turn -- 5 Q Yes or no? 6 A It's not yes or no. 7 Q Yes. It is yes or no. 8 A No, it's not. Sir, it's not yes or 9 no, because what you're trying to get me to say 10 is that it's acceptable for a driver -- 11 Q I'm not. 12 A -- to go into the other lane, and 13 it's not. 14 Q I did not ask that. You're reading 15 into things. The question was simply: Isn't it 16 sometimes necessary for a truck to swing to the 17 left before making a right turn to avoid striking 18 objects and things? 19 A How far left? 20 Q Is there a -- okay. 21 A I need to know how far left. 22 Q Is there a regulation that states 23 how far left a truck is allowed to go in making a 24 swing before a right turn? 25 A Well, if you look in the CDL manuals</p>
<p style="text-align: right;">Page 79</p> <p>1 incorrectly. 2 Q Is it your opinion there is no 3 circumstance when it's acceptable for a truck 4 driver to make a jughandle turn? 5 A In a turn such as this here where 6 you're making a right-hand turn, to make a 7 jughandle turn is incorrect -- is an incorrect 8 maneuver. 9 Q In fact, you mentioned off-tracking 10 earlier. 11 A Yes, sir. 12 Q Why don't you just explain what 13 off-tracking is. 14 A Off-tracking is when your lead tires 15 are going to be -- lead tires or steer tires, in 16 other words, are going to be on one -- one track 17 or trajectory of turn, and your following tires, 18 be it your tractor drive tires or your trailer -- 19 your semi trailer tires, are following in the 20 same basic radius for the most part, but they're 21 off track. They're not following in the same 22 exact track as you would with smaller vehicles 23 where you would almost have a tighter track. 24 Q Is it true that because of 25 off-tracking sometimes it's necessary for a truck</p>	<p style="text-align: right;">Page 81</p> <p>1 -- and it was provided in my report -- it shows 2 the difference between a button hook turn, and it 3 shows the difference between a jughandle turn. 4 Q Sir, I do not care what the 5 difference between a button hook and a jughandle 6 is. All I care about is whether there is a 7 regulation that states a truck driver can or 8 cannot go X number of feet to the left before 9 making a right turn. 10 A Again, you have the difference 11 between jughandle and button hook. 12 Q Don't talk to me about that. 13 A But that's what -- 14 Q The question -- 15 A That's the basis. That's what it's 16 all about. 17 Q Sir, are you an expert on the 18 Federal Motor Carrier Safety Regulations? 19 A Yes, I am. 20 Q Are you an expert on what is allowed 21 and not allowed on trucks? 22 A Yes, I am. 23 Q Is there a statute that states truck 24 drivers are permitted to go X number of feet to 25 the left before making a right turn?</p>

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1 A I don't recall if there is a
2 specific statute under FMCSR. However, CDL
3 manuals, as addressed earlier, are taken from
4 383.111, which gets into all of those issues, all
5 right, of how a truck driver is supposed to
6 operate. Now, based on that -- and also in
7 defensive driver training, be it NSC or
8 Smith-System, et cetera, they also train the same
9 way, is that you don't overtake a left lane in
10 order to make -- effect your right-hand turn.

11 Q Is it acceptable for a truck driver
12 to move one foot to the left prior to making a
13 right turn?

14 A Not supposed to across over into the
15 other lane.

16 Q Is there ever an instance when a
17 truck driver -- it's acceptable for a truck
18 driver to cross over a solid white line in making
19 a right turn?

20 A If he has a spotter behind him -- if
21 he is running a heavy load and he has got a
22 spotter behind him that's able to hold -- if it's
23 a long heavy load, all right, long combination of
24 vehicle or something to that effect and you have
25 some type of spotter behind you, if you're

1 MR. SETHI: I think he was also just
2 talking generally.

3 BY MR. CAFRITZ:

4 Q Now, you would agree that commercial
5 motor vehicle drivers should avoid hazards when
6 possible; correct?

7 A Sure.

8 Q And not avoiding those hazards is a
9 danger to not only the truck driver but to other
10 people around; correct?

11 A Sure.

12 Q Other vehicles, in fact, are
13 considered hazards, aren't they?

14 A True.

15 Q As are pedestrians?

16 A They are.

17 Q Bicyclists and motorcycles and Moped
18 operators, they are hazards?

19 A They are.

20 Q Poles -- telephone poles, power
21 poles, transformers, curbs, those are all
22 hazards?

23 A They are.

24 Q So going back to the concept of
25 off-tracking, all vehicles to some extent will

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1 hauling a crane, if you're hauling a large track
2 hoe, and you need to obviously swing wide in
3 order to get -- make that turn, then of course.
4 If you have a spotter vehicle behind you, then it
5 would be acceptable, if that spotter vehicle was
6 capable of holding up traffic or a state trooper
7 or local PD, et cetera.

8 Q So just so I understand you, as long
9 as circumstances are such that traffic is
10 restricted from entering your area and you can --
11 that means you can safely make that maneuver. Is
12 that what you're saying?

13 A Yes, sir.

14 And that, of course, you're talking
15 about -- as you had brought up earlier, we are
16 talking about in the initial lane of travel, the
17 initial direction, not the turn that -- not after
18 they make the turn into that right-hand turn. We
19 are talking about in this case here, on Route 11
20 would it be correct for Mr. Church --

21 Q There is no question pending, sir.

22 A No. I understand it, but I need to
23 make sure it's clarified.

24 Q I am going to move to strike. There
25 is no question pending.

1 off track; isn't that true?

2 A Yes, they will.

3 Q Even bicycles and Mopeds will
4 off-track to some degree; correct?

5 A They will.

6 Q And the longer the space between the
7 front axle and rear axle, the more the
8 off-tracking?

9 A That's correct.

10 Q That would include Mr. Church's
11 vehicle that he was driving. That would have
12 some off-track as well; right?

13 A Yes, sir.

14 Q And it's common that when driving a
15 truck that off-tracks, a driver needs to
16 compensate when making a right turn to avoid a
17 right-hand squeeze play; right?

18 A One more time.

19 Q When driving a truck that
20 off-tracks --

21 A Yes.

22 Q -- a driver needs to compensate when
23 making that right turn to avoid a right-hand
24 squeeze play?

25 A Needs to compensate on the turn on

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1 the lane that they're turning into, yes.

2 Q That means if you're turning right
3 -- because there is a blind spot on the right.

4 Agreed?

5 A Dependent upon where the blind spot
6 is, yes.

7 Q If you're turning right, because of
8 that blind spot, when you start that turn, if you
9 don't know that something is to your right over
10 there, you're going to hit it if you don't
11 compensate by swinging wide to avoid it; is that
12 true?

13 A Again, define swinging wide.

14 Q Moving to the left before you turn
15 to the right.

16 A How far to the left?

17 Q It doesn't matter.

18 A It does matter. It's --

19 Q Just as the concept. I'm not
20 stating how far. I am saying the concept that
21 one must -- to avoid -- because of that
22 off-tracking and because of the right-hand
23 squeeze play, a truck driver will need to
24 compensate for that and move to the left before
25 turning right?

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1 A To a certain extent, yes, within
2 limitations of the law.

3 Q We have already discussed that it's
4 your opinion that the only acceptable way to
5 cross over a lane of traffic when swinging wide
6 is if you put into effect a means of controlling
7 the traffic behind you so it doesn't -- so it's
8 blocked off and not coming in front behind you;
9 correct?

10 A That would be correct.

11 Q You ever seen a decal on the back of
12 a truck that warns drivers the truck makes right
13 turns -- wide right turns?

14 A Sure.

15 Q In fact, you would agree that decals
16 are fairly common on the back of trucks; right?

17 A They are.

18 Q And they're even on -- not just
19 decals on the back of trucks, but sometimes they
20 are on the mud flaps of the rear tires of trucks,
21 caution wide right turn?

22 A Typically on the right side.

23 Q That's because wide right turns are
24 something that happens with trucks; right?

25 A That's correct.

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1 Q In certain instances wide right
2 turns cannot even be avoided. Is that fair to
3 say?

4 A Wide right turns cannot be avoided?

5 But, again, it's going to depend on where you're
6 talking about the wide part and how wide.

7 Q You would agree that wide right
8 turns are so commonplace that trucking companies
9 feel a need to warn motorists that it's a
10 possibility that this truck may make wide right
11 turns?

12 A It is.

13 Q You would agree that the Virginia
14 Department of Motor Vehicles is a knowledgeable
15 source of what occurs on Virginia roadways with
16 commercial motor vehicles?

17 A Sure.

18 Q And you wouldn't hold any opinions
19 in this case that contradict with what the
20 Virginia DMV says about wide right turns, would
21 you?

22 A No, sir. But --

23 Q Let me read --

24 A -- I would have to take it and look
25 at it on a case-by-case basis because it may not

1 be completely applicable here. So I would have
2 to look at it on a case-by-case basis as to
3 applicability.

4 Q Let me read you a sentence. You
5 tell me if you agree with it or disagree with it.

6 A Sure.

7 Q "Sometimes large vehicles must swing
8 wide to turn safely. They will swing right for a
9 left turn and swing left for a right turn. Watch
10 their turn signals and give them room to
11 maneuver. Never drive between a turning truck or
12 bus and the side of the road. Your car could get
13 stuck between the large vehicle and the curb."

14 MR. SETHI: I just want to for the
15 record, that's being read to Mr. Turner and not
16 shown to him.

17 BY MR. CAFRITZ:

18 Q Do you agree with that --

19 A Yeah. I would like to see it. But
20 if you're representing exactly what it says
21 there, then I would agree with that.

22 Q Okay. Why don't we go ahead and
23 take a look at this, and I will direct your
24 attention to the fourth bullet point down. And I
25 will represent to you that that comes straight

<p style="text-align: right;">Page 90</p> <p>1 from the Virginia DMV Web site. 2 A Fourth bullet point down? 3 Q From the bottom. 4 A Okay. 5 Q The fourth bullet point from the 6 bottom. 7 A All right. 8 Q Do you agree with that statement? 9 A Sure. 10 (Turner-9, Printout from DMV Web 11 Site, is marked for identification.) 12 BY MR. CAFRITZ: 13 Q Sir, are you aware of any language 14 in the CDL manuals of Virginia or West Virginia 15 that warn commercial vehicle drivers about the 16 dangers of backing up? 17 A I don't recall if they specifically 18 cite the GOAL method, G-O-A-L, but every CDL 19 manual warns of the hazards of backing up. 20 Q In your opinion is it acceptable for 21 a truck driver to back up their trucks in 22 traffic? 23 A We have answered that question 24 earlier, and of course not. 25 Q Is it your opinion that truck</p>	<p style="text-align: right;">Page 92</p> <p>1 that forgot something. So it looked like he was 2 en route to go someplace and said, whoops, I 3 forgot the fuel, or, whoops, I forgot to get my 4 cup of coffee or whatever it was, but that was 5 where he all of a sudden cut his wheel and came 6 straight across two and a half -- almost two and 7 a half lanes. 8 Q And that was your interpretation 9 based on your viewing of the video, not based on 10 anything Mr. Church testified to; correct? 11 A Yes. 12 Q He never stated at any point that he 13 -- it was not his intention to fuel up; correct? 14 A Well, I know that he was headed to 15 Washington, DC. And he had -- after the wreck 16 had occurred, he had gone back Pactiv Way back to 17 his point of origin and came back about an hour 18 later and refueled his vehicle. So that tells me 19 that he was on his way -- probably on his way to 20 DC and on 11 and said, whoops, I forgot to fuel 21 and cut across the almost two and a half lanes. 22 Q Nothing in the CDL manual -- I want 23 to talk about mirrors. Nothing in the CDL manual 24 states a frequency with how often -- how many 25 times per feet or per second a truck driver must</p>
<p style="text-align: right;">Page 91</p> <p>1 drivers should avoid backing up their vehicles 2 whenever possible? 3 A Sure. 4 Q I'd ask you to go to your report, 5 please. 6 A Sure. 7 Q And on page -- bear with me a 8 second. 9 (Whereupon, a discussion was had off 10 the record.) 11 BY MR. CAFRITZ: 12 Q Maybe we can do it this way. Do 13 you -- 14 A Right here. 15 Q What page? 16 A It's page eight, first bullet point. 17 Q Thank you. 18 All right. In the first bullet 19 point on page eight, you state that Church turned 20 the CMV in a manner that was aggressive and 21 careless. What about the turn -- what factors 22 about the turn do you consider aggressive? 23 A Just by watching the video where he 24 originated from when he started to effect his 25 turn, to me, was more reminiscent of a person</p>	<p style="text-align: right;">Page 93</p> <p>1 check his mirrors; correct? 2 A It's generally trained under various 3 -- there is various opinions on that, but it's 4 generally between five to seven seconds, 5 depending upon the defensive driver training 6 program that a driver would undergo and what a 7 company is supposed to train their personnel. 8 Every five to seven seconds their eyes are 9 supposed to be checking the mirrors, and 10 constantly their eyes are always supposed to be 11 moving, not getting trained and fixed in one 12 direction. 13 Q That's the best practice? 14 A That's best practices. 15 Q But the question was nothing in the 16 CDL manual gives a time or distance frequency for 17 how often; correct? 18 A There are some manuals that do and 19 some that don't. 20 Q Virginia and West Virginia CDL 21 manuals? 22 A I don't recall specifically seeing 23 it in those two. 24 Q And, in fact -- well, strike that. 25 There is no standard or statute that</p>

<p style="text-align: right;">Page 94</p> <p>1 states a driver must check his mirrors more than 2 two times in ten seconds, is there? 3 A I don't believe there is, no. 4 Q You agree trucks have blind spots; 5 correct? 6 A I do. 7 Q And these blind spots exist 8 regardless of how the truck is positioned? 9 A That's correct. But in a case like 10 this, you create blind spots by maneuvers that 11 you should not have made. 12 Q The Sunbelt truck has blind spots; 13 correct? 14 A It does. 15 Q Do you know the size of the blind 16 spots on this particular Sunbelt truck? 17 A Well, no. I don't know the exact 18 size on it. 19 Q Did you ever get in the Sunbelt 20 truck? 21 A I did. 22 Q Did you ever look through the 23 mirrors? 24 A I did. 25 Q Did you do any measurements to</p>	<p style="text-align: right;">Page 96</p> <p>1 Q Let's be fair. He never stated he 2 never uses -- 3 A No. I didn't say that. I didn't 4 say he never uses. 5 Q And he never said he did not use his 6 convex mirror on this date? 7 A Most typically he uses his -- 8 predominantly he uses West Coast mirrors and 9 convex mirrors directly below his West Coast. 10 Q He never said to the exclusion of 11 the convex; correct? 12 A No. 13 Q Okay. Now, we don't know the 14 specific moments that Mr. Church looked at his 15 mirrors during the process of the events that led 16 to the accident; correct? 17 MR. SETHI: Objection to form. 18 THE WITNESS: I don't believe that 19 he used his mirrors. I mean, I just don't 20 believe that he used his mirrors, because I think 21 -- 22 BY MR. CAFRITZ: 23 Q I am not concerned with what you 24 believe. I don't mean to be disrespectful. 25 A Well, that's why I'm here, what I</p>
<p style="text-align: right;">Page 95</p> <p>1 determine the size of the blind spots in that 2 Sunbelt truck? 3 A No. 4 Q By definition is it fair to say a 5 blind spot means something that's not visible in 6 any mirrors of the truck? 7 A Or by the naked eye. 8 Q During this incident, there would 9 have been several times when plaintiff was in the 10 truck's blind spots; correct? 11 A Again, a blind spot that is created 12 by Church. In addition, there is also where 13 Church did not -- and he had testified that he 14 predominantly uses his West Coast mirrors. 15 Now, I don't know what he referred 16 to them as, but I am telling you what the term 17 is, West Coast mirrors, which are the large 18 mirrors, and his convex mirrors that are directly 19 below his West Coast mirrors. 20 He said that he predominantly uses 21 something to that effect, paraphrasing him. He 22 uses those mirrors. In other words, he doesn't 23 use his fender mirror. So that fender mirror -- 24 by not using that fender mirror cuts back on his 25 -- actually creates more blind spot.</p>	<p style="text-align: right;">Page 97</p> <p>1 believe. 2 Q Well, no. No. The question was: 3 We don't know the exact point in time when Church 4 did look at his mirrors, correct, on this -- in 5 this incident? 6 A Assuming he used his mirrors, that's 7 correct. 8 Q If we assume he used his mirrors 9 during his accident, we don't know if the Moped 10 was visible in the mirrors; correct? 11 A It would not have been visible in 12 the mirrors. 13 Q Now -- 14 A But there's -- but, Counsel, there 15 is a reason why it's not visible in the mirrors 16 is because the angle that Mr. Church put his 17 commercial motor vehicle with respect to the 18 direction of the northbound of Route 11. 19 Q The FMCSA is part of the DOT; is 20 that correct? 21 A The DOT is the executive arm of the 22 FMCSA. The FMCSA is the enforcement aspect. 23 Q They're a government agency that 24 controls commercial trucking. Is that fair to 25 say?</p>

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1 A FMCSA?

2 Q Yes.

3 A Yes.

4 Q You would consider the FMCSA an
5 authoritative agency in the field?

6 A Of course.

7 Q And the FMCSA has had public
8 campaigns to alert drivers to the dangers of
9 driving and staying in a truck's blind spot;
10 correct?

11 A Yes.

12 Q You're familiar with the no zone
13 campaign?

14 A Of course.

15 Q Can you explain what the no zone
16 campaign is?

17 A ATA came out with quite a number of
18 years ago a program called no zone that they
19 tried to get across to the common motorist to
20 stay out of the area, what is called the no zone.
21 The no zone is directly behind a commercial motor
22 vehicle where the operator cannot see with his
23 mirrors and also directly in front of the
24 commercial motor vehicle as -- because of the
25 potential of being run over if there was an

1 A In some cases, yes.

2 Q When a truck driver looks at his
3 mirrors, I think you mentioned he doesn't stare
4 into the mirror for a significant time. Correct?

5 A That's a brief -- brief quick
6 second, half second, take a look, and move on
7 with your eyesight.

8 Q The driver truck glances at the
9 mirror and scans from across his windshield from
10 side to side; correct?

11 A Well, not necessarily side to side.

12 You're encompassing all of your mirrors in that
13 task. So you're looking down at your fender
14 mirrors. You're look at your West Coast mirrors,
15 convex. Look down the road. Again, within five
16 to seven seconds, again you are looking at your
17 mirrors, all your mirrors, not just one or two.

18 Q Because, again, you can't focus too
19 long on one spot because then you won't see what
20 is happening in the other spots; right?

21 A That's correct.

22 Q We were talking about the fact that
23 the truck was in front of the Moped as they were
24 -- began -- both of them were heading down Route
25 11 north. Do you remember that part of the

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1 emergency stop. And outside the blind spots,
2 both left and right, of the commercial motor
3 vehicle, those would be considered the no zones.

4 Q And the FMCSA provides alerts to
5 instruct drivers of noncommercial vehicles so
6 that they're aware of dangers that can be created
7 just by the nature of truck operation; correct?

8 A They do.

9 Q You would agree that drivers of
10 other vehicle -- of noncommercial vehicles should
11 be aware of those dangers; correct?

12 A They should be, yes.

13 Q And, in fact, one of those dangers
14 would be that trucks make wide right turns;
15 correct?

16 A Yes.

17 Q And you would agree that one of the
18 dangers that the FMCSA has warned drivers to be
19 aware of is that trucks and bus drivers sometimes
20 need to swing wide to the left in order to safely
21 make a right turn?

22 A That's correct.

23 Q And that truck drivers can't see
24 cars squeezing in between them and the curb;
25 correct?

1 questioning?

2 A Yes, sir.

3 Q And would you agree that between a
4 moving truck and a moving Moped, that the Moped
5 can maneuver and slow quicker than the truck?

6 A Sure. But there is also stability
7 issues, I mean, as far as balance issues and
8 things of that nature with a Moped that is not
9 going to be something experienced on a four-wheel
10 vehicle or in this case here a ten-wheel vehicle.

11 Q Is it your opinion that Mr. Galloway
12 was operating his Moped at a speed that made him
13 unable to quickly stop or alter his speed to
14 avoid this collision?

15 MR. SETHI: Objection to form.

16 THE WITNESS: Repeat the question
17 one more time, please.

18 BY MR. CAFRITZ:

19 Q Is it your opinion that Mr. Galloway
20 was driving -- operating his Moped too fast to
21 allow him to quickly stop or slow his vehicle?

22 A I don't think that he --

23 MR. SETHI: Same objection.

24 THE WITNESS: I don't think he had
25 enough time based on the fact that Church had

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1 just made an all-of-a-sudden decision to cut
2 across nearly two half lanes of traffic. So he
3 wouldn't have had enough time to stop his Moped.

4 BY MR. CAFRITZ:

5 Q Because he hadn't seen the truck
6 coming across; correct?

7 A At some point he had to see him. I
8 mean, there -- at some point when he started out,
9 he had to see him, but he apparently just --

10 Q Well, he testified he did not;
11 correct?

12 A Apparently at the time just prior to
13 the crash, he didn't see him, according to his
14 testimony.

15 Q All right. Page eight of your
16 report.

17 A Okay.

18 Q I want to ask you about the specific
19 terms that you used, adjectives and adverbs, to
20 describe certain things. If you go to the last
21 bullet point on hazard perceptions --

22 A Okay.

23 Q -- you state that on lane two
24 instantly changing his mind and then later say
25 his quick decision.

1 you considered in making your conclusions here,
2 that was a simple comparison of the video to the
3 police report and noting the distinction between
4 the two?

5 MR. SETHI: I am confused. You mean
6 -- what conclusion are you referring to?

7 MR. CAFRITZ: Well, he was talking
8 about that -- that the crash description in the
9 police report was inaccurate.

10 MR. SETHI: Okay.

11 THE WITNESS: It's inaccurate based
12 on looking at the video. That's correct.

13 BY MR. CAFRITZ:

14 Q That's what you looked at to --

15 A Compared to this diagram here, it's
16 inaccurate based on the video.

17 Q Not based on anything else; correct?

18 A That's correct.

19 MR. CAFRITZ: All right. That, sir,
20 is all I have.

21 MR. SETHI: I have one or two. You
22 may have some follow-up.

23 EXAMINATION BY MR. SETHI:

24 Q Mr. Cafritz had asked you earlier
25 whether -- what your duties were in this case and

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1 A Right.

2 Q Similar to what was above when we
3 discussed it, that description of instant and
4 quick decision, that's based on your viewing of
5 the video; correct?

6 A That's correct.

7 Q There is no other fact about
8 Mr. Church's testimony that said he changed his
9 mind or did something he didn't originally intend
10 to do; correct?

11 A Just that it was my opinion based on
12 my observations of the video.

13 Q Going earlier in the report on page
14 six, your analysis comparing the --

15 A Where exactly are you?

16 Q Oh, I am sorry. I apologize. There
17 is a section that has the crash diagram from the
18 police report --

19 A Right.

20 Q -- and some language that you give
21 your assessment of the diagram being accurate or
22 versus inaccurate.

23 A Okay. Let just me read this real
24 quick. Okay.

25 Q Just so I am clear, the things that

1 what you were looking into in terms of the
2 purpose of your investigation and
3 responsibilities.

4 As part of those duties, did you
5 consider in rendering your opinions whether Mr.
6 Galloway was at fault in causing this accident?

7 A I did.

8 Q You did consider that?

9 A Yes, sir.

10 Q All right. Did you -- at some point
11 in your report, does it have an opinion as to the
12 cause of this accident?

13 A I did.

14 Q Could you explain what that opinion
15 was and what the cause was?

16 A The cause -- the cause was that the
17 commercial motor vehicle coming from two and a
18 half lanes over, in cutting across and failure to
19 use mirrors properly and so forth, cutting across
20 the lanes of traffic on Route 11 into what I
21 consider an abrupt turn into the -- I believe it
22 was a Sunoco gas station and failure to maintain
23 in the right lane as the driver Church should
24 have maintained in the right lane and had done a
25 button hook turn where he actually went and more

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1 aggressively did more than what I would consider
2 a jughandle turn, because a jughandle turn
3 originates from that right-hand lane, swings out
4 wide into the other lanes, and then comes across
5 and cuts into the intended right-hand turn.

6 This turn here that was effected by
7 Mr. Church was -- originated from about two and a
8 half lanes in. So what I refer in my report as
9 partly in lane two, which would be the secondhand
10 lane from the left-hand side.

11 Q Explain why Mr. Galloway was not at
12 fault in your opinion.

13 MR. CAFRITZ: Object to the form of
14 the question.

15 THE WITNESS: Because Mr. Galloway
16 was just traveling in the right-hand lane. I --
17 he appeared just to be traveling in the
18 right-hand lane, so he really -- he wasn't at
19 fault at that point. He had a right to be where
20 he was at that given time.

21 MR. SETHI: I have nothing further.

22 Do you have anything further?

23 MR. CAFRITZ: No. Thank you, sir.

24 On the record, Mr. Sethi is taking

25 Exhibits 5, 6, and 7 in his custody for

1 CERTIFICATE

2 I, JACQUELINE ZAMMATARO, a Notary Public and
3 Certified Shorthand Reporter of the State of New
4 Jersey, License No. XI01142, do hereby certify
5 that prior to the commencement of the
6 examination, Scott L Turner was duly sworn by me
7 to testify to the truth, the whole truth and
8 nothing but the truth.

9 I DO FURTHER CERTIFY that the foregoing is a
10 true and accurate transcript of the testimony as
11 taken stenographically by and before me on the
12 date and at the place aforementioned.

13 I DO FURTHER CERTIFY that I am neither a
14 relative to nor employee of, nor attorney or
15 counsel for any of the parties to this action;
16 and that I am neither a relative to nor employee
17 of such attorney or counsel; and that I am not
18 financially interested in the action.

19

20

21 Jacqueline Zammataro, C.S.R.

22 Notary Public of the State of

23 New Jersey, Notary No. 2017406

24

25 Dated:

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1 duplication for copying and send to counsel. We
2 will leave the court reporter with the cover page
3 showing the exhibit sticker of each publication.

4 (The deposition is adjourned at
5 12:23 p.m.)

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